

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

FRED SMITH,

Plaintiff,

v.

Case No: 6:20-cv-1666-WWB-GJK

CERES MARINE TERMINALS, INC.,

Defendant.

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**ORDER**

On December 16, 2020 Plaintiff served interrogatories and requests for production on Defendant Ceres Marine Terminals, Inc. (Doc. 29 at 1). Defendant has not answered, objected, or otherwise responded to this discovery (Id.). When a party fails to respond to discovery, or provides untimely responses, whatever objections it might otherwise have had are deemed waived. Limu Co., LLC v. Burling, 2013 WL 1482760, at \*1-2 (M.D. Fla. Apr. 11, 2013) (citing Enron Corp. Savings Plan v. Hewitt Associates, L.L.C., 258 F.R.D. 149, 156 (S.D. Tex. 2009); Bailey Indus., Inc. v. CLJP, Inc., 270 F.R.D. 662, 668 (N.D. Fla. Sept. 30, 2010) (“when a party fails to timely object to interrogatories, production requests, or other discovery efforts, the objections are deemed waived.”). See also Bailey v. City of Daytona Beach Shores, 286 F.R.D. 625, 627 (M.D. Fla. Oct. 23, 2012) (collecting cases). The Court finds that Defendant has waived any objections it might otherwise have had to the interrogatories and requests for production.

Now pending before the Court is Plaintiff Fred Smith’s Second Motion for Order Compelling Discovery Against Defendant and for Waiver of Discovery Objections (Doc. 29). The motion seeks an order compelling Defendant to respond to the unanswered

interrogatories and requests for production (Id.). Defendant has failed to respond to the motion. When “a party fails to timely respond, the motion is subject to treatment as unopposed.” M.D. FLA. R. 3.01(c). The Court finds that Plaintiff’s motion is unopposed, and it is **GRANTED**. Defendant shall fully respond to Plaintiff’s interrogatories and requests for production within seven days from the rendition of this Order.

When a motion to compel is granted the Court must ordinarily award the movant his reasonable expenses, including attorney’s fees, incurred to bring the motion. FED. R. CIV. P. 37(a)(5). The Rule recognizes three exceptions, none of which apply. However, Plaintiff did not request his legal expenses to prosecute the motion. Had he done so, the same would have been awarded.

**DONE** and **ORDERED** in Orlando, Florida on May 25, 2021.<sup>1</sup>



THOMAS B. SMITH  
United States Magistrate Judge

Copies furnished to Counsel of Record

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<sup>1</sup> Judge Smith is temporarily handling this case for Judge Kelly.